SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author:	Hayden	Analyst:	Roger Lackey	Bill Number:	SB 1710
Related Bills:	See Prior Analysis	Telephone:	845-3627	Amended Date:	08-24-2000
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: The 2000 Public Subsidies, Public Benefits Act/Taxpayers Request to FTB Bus. Tax Expenditure Info & FTB Collect & Report to Legislature

_____ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended __________.

_____ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

__x__ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as amended August 7, 2000.

__x__ FURTHER AMENDMENTS NECESSARY.

_____ DEPARTMENT POSITION CHANGED TO ________________________.

__X__ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED August 7, 2000, STILL APPLIES.

_____ OTHER - See comments below.

SUMMARY OF BILL

This bill would create the 2000 Public Subsidies, Public Benefits Act. It would require certain legislative entities to review the economic and employment impact of state business tax expenditures and all other public subsidies.

Further, it would require taxpayers to provide the Franchise Tax Board (FTB) specific information regarding the taxpayer's "business tax expenditures" (as defined).

This analysis will address the bill only to the extent it impacts the department.

SUMMARY OF AMENDMENTS

The August 24, 2000, amendments revised the review to be completed by the Legislative Analyst. The amendments provided that the Legislative Analyst would complete reviews of the economic and employment impact of business tax expenditures selected annually through consultation with the chair of the finance committees. The selected business tax expenditures would be reviewed based on a schedule that would be keeping within Legislative Analyst's workload considerations.

The amendments also eliminated the December 31, 2005, deadline for the Legislative Analyst to complete the review of all business tax expenditures.

As a result of the elimination of the December 31, 2005, deadline, one of the department's implementation considerations has been resolved. The remaining implementation considerations are included below.

Except for the discussion of this analysis, the department's analysis of the bill as amended August 7, 2000, still applies.

Board Position:			Legislative Director	Date
____ S	____ NA	__X__ NP		
____ SA	____ O	____ NAR	Johnnie Lou Rosas	9/14/00
____ N	____ OUA	____ PENDING		

IMPLEMENTATION CONSIDERATIONS

The definition of “business tax expenditure” under the bill includes “credits, deductions, exemptions, exclusions, special tax rates, and other preferences claimed with respect to income earned or taxes owed by a taxpayer in the course of a trade or business." State tax law contains a number of distinctions between types of taxpayers. For example, the minimum franchise tax for certain corporations involved in gold or quicksilver mining is $25, rather than $800. Limited liability companies are required to pay an $800 annual tax and a fee, while limited liability partnerships pay only an $800 annual tax. S corporations are not subject to the alternative minimum tax and pay a lower franchise tax rate than other corporations. Individuals are taxed at graduated rates ranging from 1% to 9.3%. Many organizations, such as churches and nonprofit charities, are exempt from taxation, except in limited cases when nonprofit organizations have unrelated business taxable income. Certain income, such as interest on federal obligations and state obligations, is exempt from income tax. Taxpayers engaged in a trade or business are allowed to deduct ordinary and necessary business expenses. It is unclear whether these and the numerous other aspects of the tax treatment of businesses would be considered “business tax expenditures” under the bill.

The bill requires taxpayers claiming any business tax expenditure to report to the FTB the total number of full-time equivalent employees in the state on December 1. Without clarity concerning the meaning of “business tax expenditure,” implementation of the reporting requirement would be problematic. It is also unclear whether the department would be expected to verify the accuracy of a taxpayer’s reporting of the number of full-time employees and, if so, how. The Employment Development Department would be the more appropriate agency to keep records regarding the number of full-time employees. In addition, while taxpayers would be required to report specific information to FTB, the bill provides no penalty if taxpayers fail to comply with the reporting requirements.

The department would be required to provide information to Legislative Analyst on taxpayers that claim business tax expenditures regarding any final citation or assessment that resulted in a decision adverse to a taxpayer for violating state laws governing minimum wage and overtime, child labor, occupational safety and health, or certain amounts collected under the Unemployment Insurance Code. The department does not have access to any of this information.

POSITION

No Position.

At its July 5, 2000, meeting, the Franchise Tax Board agreed to take no position on this bill.